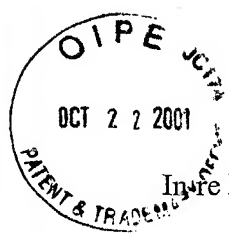


10/28/02



PATENT  
Attorney Docket 044921-5058-01-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: **Patricia Murphy et al.**

Application No. **09/084,471**

Filed: **May 22, 1998**

For: **Novel Coding Sequences of the Human  
BRCA2 Gene**

Examiner: **S. Zitomer, Ph.D.**

Group Art Unit: **1655**

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OCT 25 2001

RESPONSE TO SPECIES ELECTION

TECH CENTER 1600/2900

In the Office Action dated August 21, 2001 (Paper No. 20), the Examiner set forth a species election requiring election of species between species of a nucleic acid molecule comprising a BRCA2 gene.

In view of the species election, Applicants elect the species disclosed in claim 61(a), with traverse, relating to a BRCA2 nucleotide sequence comprising an exon 15 sequence with a thymidine at a position corresponding to nucleotide 171 of SEQ ID NO: 2. Applicants submit that claims 61-86 are related to the aforementioned BRCA2 nucleotide sequence because they are either dependent on claim 61 (claims 62-83) or recite the aforementioned variation in exon 15. Applicants therefore respectfully submit that claims 61-86 read on the elected species.

Applicants request that examination proceed on claims 61-86 with the understanding that upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. 1.141.

**Except** for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **Constructive Petition for Extension of Time** in accordance with 37 C.F.R. 1.136(a)(3).


Attorney Docket 044921-5058-01-US

Application No. 09/084,471

Page 2

Dated: **October 22, 2001**  
Morgan, Lewis & Bockius LLP  
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1800 M Street, N.W.  
Washington, D.C. 20036  
202-467-7000

Respectfully submitted  
**Morgan, Lewis & Bockius LLP**

  
\_\_\_\_\_  
Michael S. Tuscan  
Registration No. 43,210



21/D

PATENT  
ATTORNEY DOCKET NO. 44921-5058-01-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Patricia MURPHY et al. )  
Application No.: 09/084,471 ) Group Art Unit: 1655  
Filed: May 22, 1998 ) Examiner: Stephanie Zitomer, Ph.D.  
For: NOVEL CODING SEQUENCE )  
HAPLOTYPES OF THE HUMAN )  
BRCA2 GENE )

Commissioner for Patents  
Washington, D.C. 20231  
**BOX SEQUENCE**

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STATEMENT ACCOMPANYING SUBSTITUTE SEQUENCE LISTING

Dear Sir:

The undersigned hereby states upon information and belief that the Substitute Sequence Listing submitted concurrently herewith does not include matter which goes beyond the content of the application as filed and that the information recorded on the diskette submitted concurrently herewith is identical to the written Substitute Sequence Listing submitted herewith. This submission is responsive to an Office Action dated August 21, 2001 (paper no. 20).

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: 10/22/01

By: Rosanne Kosson  
Rosanne Kosson  
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